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10/798,711

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Robert W. Driscoll

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EXAMINER

DUFFY, DAVID W

ART UNIT

PAPER NUMBER

3714

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/798,711	<b>Applicant(s)</b> DRISCOLL ET AL.	
	<b>Examiner</b> DAVID W. DUFFY	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) 12-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 19-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. This office action is in response to the amendment filed 12/05/2007 in which applicant amends claims 1, 6, 9, and 19-24. Claims 1-11 and 19-27 are pending.

### ***Specification***

2. The disclosure is objected to because of the following informalities: Par 9: "and pas that information" appears to be incorrect. Suggested correction is 'pass'. Par 14: The first letter of "it will also be quite" should be capitalized.

Appropriate correction is required.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 1, 2, 3, 4, 5, 6, and 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-11 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gabai et al. (US 6352478).
6. In regards to claim 1, Gabai discloses a system that has a number of fanciful toy figures with wireless communication systems (48:30-37) where the toy figures include freely mobile characters and a portable owl doll for users to carry (49:6-15 and 49:19-28) where the mobile character transmits information identifying the character (48:66-49:5) and information is received by the other figures (50:47-49). Gabai further discloses that the figures have the ability to direct users to facilities in the theme park (56:34-39 and 56:65-57:9) as well as to direct them to the location of other users in the park (53:27-54:14). Gabai lacks explicitly stating that the portable toy would be able to notify the user that a mobile character is nearby. However, in light of the other directional and tracking abilities of the system and the fact that the system is based around sending users to see multiple figures in a game, it would be obvious to also allow the system to direct users from one figure to another, be it stationary or mobile, to prevent the users from getting lost or to provide tips during the game.
7. In regards to claims 2 and 3, Gabai discloses the use of infrared or radio frequency signals (51:15-24).
8. In regards to claim 4, Gabai discloses that each figure or node has an ID (figure 43A, element 2850).

9. In regards to claim 5, Gabai discloses that the portable owl figure has memory (figure 71, element 4030 which is related to figure 6 with description 35:31-32).

Examiner contends that signals in the device must inherently be stored in some sort of memory in order for the device to operate.

10. In regards to claim 6, Gabai discloses a system with a number of wireless signal transmitters at various locations throughout a theme park environment (48:66-49:5), that has a number of fanciful toy figures with wireless communication systems (48:30-37) where the toy figures include freely mobile characters and a portable owl doll for users to carry (49:6-15 and 49:19-28) where the mobile character transmits information identifying the character (48:66-49:5) and information is received by the other figures (50:47-49). Gabai further discloses that the figures have the ability to direct users to facilities in the theme park (56:34-39 and 56:65-57:9) as well as to direct them to the location of other users in the park (53:27-54:14). Gabai lacks explicitly stating that the portable toy would be able to notify the user that a mobile character is nearby.

However, in light of the other directional and tracking abilities of the system and the fact that the system is based around sending users to see multiple figures in a game, it would be obvious to also allow the system to direct users from one figure to another to prevent the users from getting lost or to provide tips during the game.

11. In regards to claims 7 and 8, Gabai discloses the use of infrared or radio frequency signals (51:15-24).

12. In regards to claim 9, Gabai discloses a system that has a number of fanciful toy figures with wireless communication systems (48:30-37) and memory (figures 71 and

74, element 4030 and 4270 respectively, which are related to figure 6 with description 35:31-32), where the figures are able to receive signals and trigger playback of preprogrammed data related to received signals (instructs the child to stay put in response to being informed that the parent is searching for the child, 53:27-54:14) where the toy figures include freely mobile characters and a portable owl doll for users to carry (49:6-15 and 49:19-28) where the mobile character transmits information identifying the character (48:66-49:5) and information is received by the other figures (50:47-49). Gabai further discloses that the figures have the ability to direct users to facilities in the theme park (56:34-39 and 56:65-57:9) as well as to direct them to the location of other users in the park (53:27-54:14). Gabai lacks in explicitly stating that the portable toy would be able to notify the user that a mobile character is nearby. However, in light of the other directional and tracking abilities of the system and the fact that the system is based around sending users to see multiple figures in a game, it would be obvious to also allow the system to direct users from one figure to another to prevent the users from getting lost or to provide tips during the game.

13. In regards to claims 10 and 11, Gabai discloses the use of infrared or radio frequency signals (51:15-24).

14. In regards to claim 19, Gabai discloses a figure with wireless communication equipment (48:30-37) that receives information from a plurality of wireless transmitters in a surrounding environment that generate signals representing the location of objects and characters in the environment (48:66-49:5), memory (figures 71 and 74, element 4030 and 4270 respectively, which are related to figure 6 with description 35:31-32)

preprogrammed with data related to location (56:34-39 and 56:65-57:9). Gabai further discloses the storage of data related to the events of a user in the park (51:63-52:25). Gabai further discloses the communicating with the user based on the user's event data (figures 52-57).

15. In regards to claim 20, the user's name is stored in memory (52:37-41).

16. In regards to claim 21, the toy addresses the user using the name from memory (figure 46A, element 2810).

17. In regards to claims 22 and 23, Gabai discloses the use of infrared or radio frequency signals (51:15-24).

18. In regards to claim 24, each object, location or character corresponds with a wireless signal transmitter (49:16-18).

19. In regards to claims 25-27, Gabai discloses that the toys may produce sound effects, music and speech (7:12-19 and 7:31-34).

### ***Response to Arguments***

20. Applicant's arguments filed 12/05/2007 have been fully considered but they are not persuasive. Applicant argues that the instant application is different than the cited patent because "The toy is able to prepare and deliver to the user holding the toy a predefined response based on the toy's location relative to a roving character." As examiner has shown and described above the system of Gabai is more than capable of directing users to specific locations of moving targets (e.g. the lost child program and the directions to the restrooms). Examiner does not see the alleged difference in the

instant application over the cited art, barring minor design considerations that have not been claimed.

21. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the physical location of message data storage) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, the location of data storage in a networked system is a matter of obvious engineering choice.

### ***Conclusion***

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID W. DUFFY whose telephone number is (571)272-1574. The examiner can normally be reached on M-F 0830-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. W. D./  
Examiner, Art Unit 3714

//Corbett B. Coburn//  
Primary Examiner, Art Unit 3714